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U.S. Dept. of the Treasury

Alcohol city

Washington

1936

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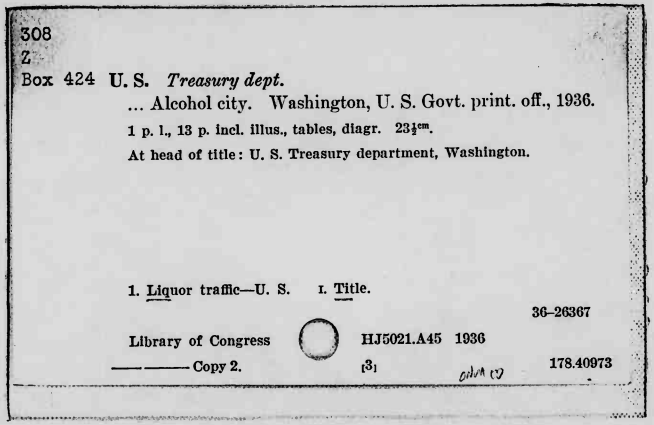

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Box 424 U. S. *Treasury dept.*
... Alcohol city. Washington, U. S. Govt. print. off., 1936.
1 p. l., 13 p. incl. illus., tables, diagr. 23½cm.
At head of title: U. S. Treasury department, Washington.

1. Liquor traffic—U. S. I. Title.

36-26367

Library of Congress HJ5021.A45 1936
Copy 2. 3 178.40973

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TECHNICAL MICROFORM DATA

FILM SIZE: 35mm REDUCTION RATIO: 10:1 IMAGE PLACEMENT: IA (IIA) IB IIB

DATE FILMED: 6-3-97 INITIALS: PB

TRACKING # : 24930

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MAY 1 8 1936

U. S. TREASURY DEPARTMENT
WASHINGTON

ALCOHOL CITY

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Box 424

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1936

ALCOHOL CITY

Alcohol City is an active but unpleasant community of upward of 25,000 population, situated somewhere in the United States.

It cannot be found by that name on any map. It supports no chamber of commerce to point out to the world its civic virtues. It has none.

Alcohol City's fundamental business is the illicit liquor industry. It represents the imaginary concentration, in one place, of the illegal traffic in intoxicants. Its official census lists the known violators in 1935 of Federal liquor-revenue laws. Their numbers approximate the populations of such small cities as West Palm Beach, Fla.; Ann Arbor, Mich.; or Albuquerque, N. Mex. In addition to these officially listed inhabitants, it supports such elements of society as lawyers regularly engaged in defense of the industry; chemists; and other technical aids. There move also among the listed inhabitants sundry uncounted persons, some of them newcomers to Alcohol City, others gentry so furtive that the census takers—the agents of the Alcohol Tax Unit—have as yet been unable to list them.

On the suburbs of the city proper live the inadequately accounted for violators of State and local liquor laws and regulations, and both in the city and around its outskirts swarm the brothelkeepers, gangsters, and racketeers whose businesses require that they keep closely in touch with Alcohol City's basic industry.

Alcohol City pays no taxes, except such as Federal agents are able to uncover from hidden properties. Its inhabitants are so taciturn and evasive that it is difficult to assemble the statistical material necessary for an accurate determination of the prosperity of the community.

However, in addition to the number of officially listed inhabitants, the number of plants that abandoned operations because of Government "interference" is known. Federal officers during the past year seized property worth $5,500,000 and demolished nearly 16,000 stills. Obviously there is no unemployment problem, since even small stills require at least 2 men to operate them, and the count shows 1 still for each 2 of the officially listed inhabitants. Warehousing and

storage space are known to be at a premium. New industries constantly seek to take the place of those closed by governmental interference. Although the finished product enter-

Big business in the illicit liquor industry. This efficient-looking six-story building housed one of the largest illicit distilleries ever discovered. It is against violations of this magnitude that the primary activities of the Alcohol Tax Unit are directed.

Inside the above "warehouse" the latest electrical equipment operates a scientifically constructed still in an efficient fashion.

ing trade channels represents only a small part of the production that would be possible with governmental activities eliminated, its inhabitants' hopes of future gain are suffi-

cient to sustain the business of the community, and to attract a constant trickle of newcomers seeking to take the places of those who retire.

Alcohol City represents an industry that covers the entire United States. No figure of speech is necessary to disclose the widespread diffusion of the industry. It is a practical business, with great resources, adequate capital, a thorough sales organization, and a large consumer demand. Its product is provided in part by distilleries rivaling in size the largest legitimate plants, in part by distilleries of a few

Disguised as a feed-products plant, this illicit distillery sought to divert suspicion from the enormous amounts of raw materials that it purchased by merchandising stock food as a side line.

hundred gallons capacity, and by small whisky stills. Skilled but unscrupulous scientists, technicians, and unskilled amateurs supply the industry with its personnel. Distribution of the liquor is usually handled by the producer, but when "protection" is necessary, the distribution may be taken over by well-armed gangs of racketeers and public enemies.

Large scale distilleries like the one seized at Zanesville, Ohio, on January 19, 1935, are the major concern of the enforcement unit. This plant was situated in an abandoned pottery works. It covered 8 acres of ground and was leased for the ostensible purpose of manufacturing stock feed.

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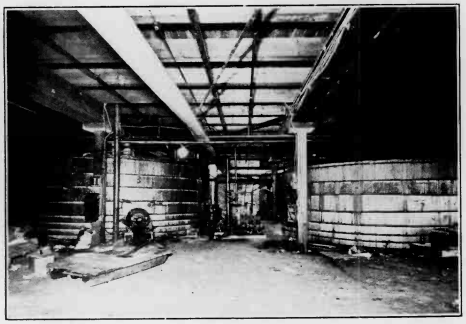

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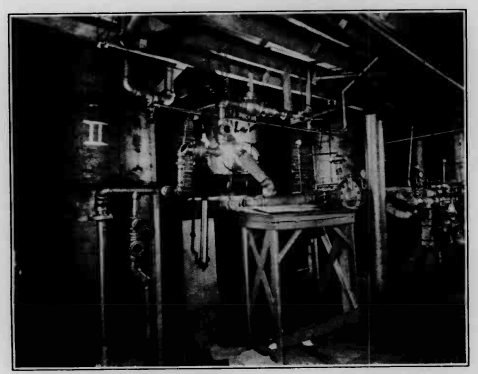
Behind bins and feed-grinding machinery, an illicit liquor plant was concealed. The cost was about $200,000. The ability to finance this project is indicative of the power of organized gangs and of the capital at their command.

Money alone, however, is not enough to put a distillery into production. Technical skill of the highest type is also necessary. Trained chemists and chemical engineers are indispensable to the successful production of potable liquor in large quantities. But such abilities are not lacking.



Exact formulas are used and accurate records are kept in the large illicit distilleries. Among the big producers there is no "guesswork".

There is no dearth of professionally trained men who willingly supply the industry with adequate technical assistance.

Twelve men operated the Zanesville plant on two 12-hour shifts. Employees in plants of this character are paid from $60 to $200 a week. Their pay continues even while they are in jail. Every precaution is taken to safeguard the men against capture. In the Zanesville plant, a tunnel more than 100 yards long connected the distillery with a nearby residence. The agents of the Alcohol Tax Unit, however, knew of the exit and captured the men as they attempted to escape.

The original filling of the mash vats in the Zanesville still required 48,600 pounds of sugar and 15,200 pounds of "molaska", which is a highly concentrated dehydrated black-strap molasses product. From these ingredients 32,000 gallons of mash were made. And by using continuous-process distilleries, 5,000 gallons of high-grade spirits were produced every 24 hours.

The cost of production of a gallon of 190° proof alcohol in a plant of this type varies from 50 to 75 cents a gallon depending upon the cost of protection, labor, fuel, raw materials, and the efficiency of operation. The estimated profit

Thousands of pounds of "molaska" and sugar are used daily in the preparation of the mash.

is approximately 300 percent—the minimum selling price being $2 a gallon.

A large-scale plant must function approximately 5 weeks before it can operate at a profit. Because it is illicit, it cannot "spread" the original cost over a period of years, for it is always in danger of detection and destruction. Consequently, profit cannot be computed until the entire installation cost has been paid. For example, 3 weeks after operations were begun at the Zanesville plant, it was seized by the Alcohol Tax Unit. The owners thus suffered a heavy loss on their original investment without realizing any actual profit.

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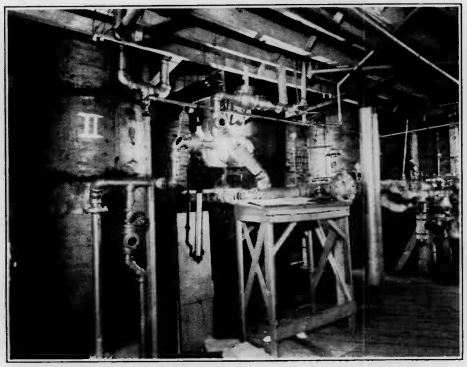

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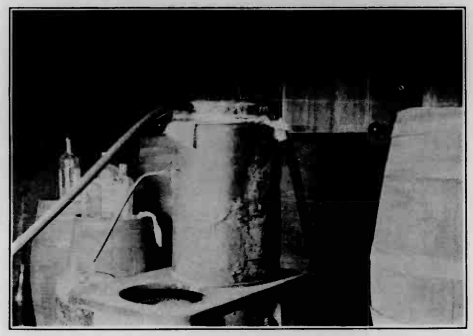
The small whisky still, located most frequently in the warmer-climated sections of the country, is also a source of surprising profit. This type of still is usually situated in open woods, near running water, without buildings to protect

Small home-made stills also add volume to the illicit liquor supply.



Complicated equipment is unnecessary for the production of liquor. Although the production of this crude still may be neither great nor good, it, too, creates a problem for conscientious enforcement officials.

it. The equipment necessary for a 100-gallon "pot" distillery is a still boiler, worm, flake stand, tubs and buckets, cap, condenser, preheater and connections—costing in all about $40. Twenty fermenters, costing $60, complete the outfit.

The materials necessary for the initial operation of these small plants are 200 pounds of sugar, 1 bushel of corn or rye meal, and a little yeast and barley malt. The materials cost approximately $11. With this equipment the "moonshiner" is prepared to begin operation. No technical skill is needed. A little experience and a little experimentation supplement the "common knowledge" generally prevalent in the localities where "moonshining" stills abound.

Only one man, who receives about $1 a day, is needed to operate the average size "pot" still. In the course of a day the still produces about 24 gallons of liquor. The product sells for about $1.25 a gallon, and returns to the operator a net profit of approximately $16 a day. The average individual income in the locality in which these stills operate seldom exceeds $300 per year. Thus, the profit to the "moonshiner", even though he operates but a few days a month, makes him a financial leader in his community.

Indeed, "moonshining" and "bootlegging" in many communities are more than a means by which "persons on relief may eke out a bare existence"—it provides a "profit motive" which can be deterred only by strict enforcement and long imprisonments.

ALCOHOL CITY'S COST TO THE GOVERNMENT

Conditions in Alcohol City and in the United States impose a serious financial burden on Federal, State, and local Government. The actual loss of revenue to the Federal Government is so conjectural that any estimate is likely to be unreliable. Revenue loss, however, is Alcohol City's smallest expense to the Government. Enforcement agencies and judicial and penal machinery are the greatest financial burdens that Government must bear because of this type of criminality.

In addition to the cost of crime-prevention agencies, the Federal Government spent $33,136,581 in 1935 in support of the judicial process. More than 50,000 persons were brought before these courts to answer criminal prosecutions. Of this number, over 40 percent were charged with violation of the Federal liquor laws. If in 1936, through better enforcement, the number of apprehended liquor violators is greater, the financial burdens will be heavier. And this cost

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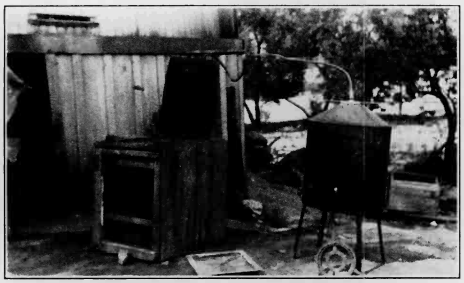

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cannot be easily justified if the enforcement machinery does not provide adequate means for the control of the liquor-revenue problem.

What are the tests of adequacy? Are alcohol-tax violators sentenced to imprisonments commensurate in length with the imprisonments imposed upon other law violators? Do the fines and penalties remove the profit motive from the industry? Is every habitual liquor-tax violator imprisoned? Does our present enforcement actually discourage the continued manufacture and distribution of illicit liquor? Only if these questions are answered in the affirmative, can it be said that all the money allocated for the enforcement of the liquor laws has been put to good use.

No sympathy needs to be wasted upon the inhabitants of Alcohol City. There is no legitimate excuse for their fundamental business. Their product cannot compare in wholesomeness with the product of legitimate distilleries. Every pint marketed represents a fraud against the Government and a fraud against the producer who has conformed with the law. Many of their sales represent frauds against the consuming public for the product is often marketed with counterfeit labels and counterfeit strip stamps. These counterfeiters, in turn, sometimes direct their talents to the production of bogus money and fraudulent corporation bonds and thus are responsible for even more widespread losses to the public.

Among the inhabitants of Alcohol City are not only moonshiners, bootleggers, and counterfeiters, but also a large number of murderers, burglars, highwaymen, larceners, unscrupulous ward politicians, gangsters, and other misdemeanants. Almost the entire population has had some previous criminal experience. The illicit liquor industry is operated by both professional and amateur criminals, and thus both the liquor and the general crime problem must be treated together. This is a tremendous task. For success, layman, lawyer, and judge must all lend concerted support to the eradication of the denizens of Alcohol City.

IS ENFORCEMENT EFFECTIVE?

The price which the tax evader has to pay for his profit is risk—risk of apprehension, of fine, and of imprisonment. The Alcohol Tax Unit of the Treasury Department employs

1,300 men in an endeavor to make that risk as great as possible; and it is upon the reality of that danger that the effectiveness of law enforcement primarily depends. Once apprehended, the violator must successively face the United States attorney, the United States commissioner, a grand jury, and finally, the Federal district judge and jury. In nearly 9 out of 10 cases, if the violator is held for trial, he either pleads guilty or is found guilty by the jury.

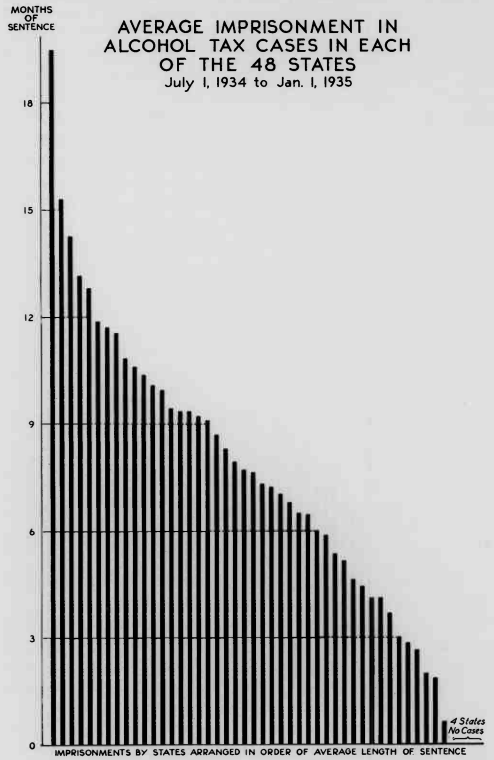
But his fate is not as fearsome as might be expected. Even though guilty, the defendant has a better chance than 1 in 3 of escaping imprisonment entirely. He has 4 chances in 5 of receiving less than 1 year's imprisonment. The scale of punishment of alcohol-tax offenders is encouraging to the violators. In every hundred convictions:

16 defendants will escape imprisonment and be placed on probation.
17 defendants will receive a fine only.
20 defendants will be imprisoned from 1 day to 4 months.
18 defendants will be imprisoned from 4 months to 7 months.
6 defendants will be imprisoned from 7 months to 1 year.
12 defendants will be imprisoned from 1 year to 1 year and 1 day.
5 defendants will be imprisoned from 1 year and 1 day to 2 years.
6 defendants will be imprisoned 2 years or over.

Imprisonments for alcohol-tax violations fall very definitely into three periods—3 months, 6 months, and 1 year. Unfortunately, the shorter imprisonments predominate. For example, while 21 of the 122 Federal judges sentencing alcohol-tax violators during the first half of the fiscal year 1935 imposed sentences averaging more than 1 year, 50 judges imposed sentences averaging less than 6 months.

Variation in the sentencing practice of individual judges further emphasizes the uncertainty of imprisonment facing the average alcohol-tax violator. Before Judge X, a defend-

ant can expect a maximum of 3 years and 4 months with no chance of a suspended sentence and probation. In addi-



tion, the defendant must pay a fine of $733. Before Judge Y, however, only 1 defendant in 12 is imprisoned, and then only for 1 hour. There is little risk, burden, or deterrence

in Judge Y's sentences. On the other hand, Judge X's sentences tend to remove the profit from bootlegging and substitute a real risk of long imprisonment.

The cause of this great diversity in sentencing practice is of major concern to law-enforcement officials, for great expenditures of time and effort seem futile if the defendant always pleads guilty, is released, and returns to his "business" unharmed. Thus, when more than one-half of our Federal judges impose sentences which average 6 months or less and only 17 percent of them sentence violators to 1 year or more, enforcement becomes difficult. While of course there are variations as among different geographical areas, great discrepancies also occur within a single district. For example, compare the records of four Federal judges sitting in the same district. Obviously, the offender should choose his judge with care. Not only is there a great variation in the average imprisonment imposed, but also in the fine imposed and in the frequency of imprisonment.

Variation in sentencing practice	Average imprisonment	Average fine	Ratio of persons imprisoned to persons convicted
	Days		*Percent*
Judge A	365	$1,100	76
Judge B	90	325	25
Judge C	61	0	33
Judge D	30	0	60

The same variation exists among the several circuits.

Sentencing practice by circuits	Number of convictions	Average imprisonment	Ratio of persons imprisoned to persons convicted
		Days	*Percent*
First circuit	66	289	24
Second circuit	190	156	51
Third circuit	184	115	43
Fourth circuit	574	276	71
Fifth circuit	1,299	220	71
Sixth circuit	471	300	74
Seventh circuit	202	150	36
Eighth circuit	580	342	67
Ninth circuit	377	247	63
Tenth circuit	510	401	73

Note particularly the concentration of convictions in the fourth and fifth circuits (Southern States) and the relative paucity of convictions in the first, second, and third circuits.

The average length of imprisonments will continue to fluctuate unduly until there is a general understanding of the character of post-prohibition liquor violations. The professional and lay public must realize the need for uniformly effective punishments. Only then will the large operators be driven out of the business and into prison. Such is the purpose of the Federal Government's program for Alcohol City.

A CIVIC BETTERMENT PROGRAM FOR ALCOHOL CITY

The public, by the end of prohibition, was in open revolt against those principles which they believed to be the moral and legal bases for the prohibition of alcoholic liquor. This attitude gave rise to an avowed and unabashed tolerance of groups of professional criminals, with resulting inactivity of prosecutors, complacency of juries, and compassion of judges. Since repeal, however, there is no need for the "bootlegger" and the "moonshiner." Legal, taxpaid liquor, pure in quality, and certain of content is widely available.[1] The bootlegger no longer is a martyred minister to individual liberty—he is only a revenue violator, a tax evader, a criminal.

Prosecution of liquor-law violators should no longer depend upon prejudices concerning the moral effect of alcohol upon the social order. Enforcement is now purely a matter of revenue and of honesty. As one Federal judge pointedly remarked:

> We are now confronted with a serious problem in the enforcement of the revenue laws, largely because a lawless criminal element grew up in our midst during the prohibition era, and these same enemies of society are today operating as though they had public sentiment and public sympathy to support them. Such people must be taught at once that the contrary is the fact.

The first step toward effective enforcement of the Federal liquor statutes is a conscious judicial classification of liquor violators. Violators operating on the scale described in the beginning of this pamphlet must be treated differently from the 20-year-old boy whose adventure in crime consists of peddling a few pints of untaxpaid liquor. Likewise, organized violations under gangster rule deserve a severity of treatment unconscionable in the case of individual offenders.

[1] Except in seven States—Alabama, Georgia, Kansas, Mississippi, North Dakota, Oklahoma, Tennessee—where State prohibition is still in effect.

Not only must the public think of liquor violations as inexcusable infractions of the law, but also they must learn to discriminate between the chronic criminal and the amateur, the poverty-stricken peddler and the professional liquor profiteer. This classification is necessary to make punishment coincide with the economic motive for violation. With legitimate manufacture permissible, the only incentive for illicit production is the economic attractiveness of tax evasion. Law enforcement must emphasize the profit motive. It cannot expect to curtail the volume of untaxpaid liquors by the arrest of itinerant wage earners regardless of the length of imprisonment to which they are sentenced. Enforcement activity and prosecution must be directed against those who have invested their capital in the industry. To make business unprofitable, these persons must not only suffer the loss of an occasional employee, but also must suffer personal risk of speedy prosecution, long imprisonment, and burdensome forfeitures and fines which will wipe out past profits and future expectancies.

This, then, is the program for Alcohol City. It is a program that depends, first, upon intelligent direction of enforcement activity, second, upon firm and fearless prosecution, and finally, upon a general stiffening of sentencing practice to take profit from illicit manufacture and substitute heavy imprisonment in its place.

The program has judicial sponsorship. One judge, speaking for himself and the judges in his district, said:

> * * * every effort of our law-enforcement agencies should be at once directed to driving these alcohol racketeers and their nefarious business out of the State. * * * This court will, therefore, deal with all such crimes as major offenses against the Government.

The judge's application of his policy is as noteworthy as its principle. After sentencing a recent alcohol-tax violator to 18 months' imprisonment and $700 fine, the judge told the defendant:

> If you had not pleaded guilty, but had compelled the Government to go to the expense of a trial you would have got 8 years and $2,000 fine. * * * The sentence inflicted by this court will be extremely severe to the end that all may understand the severity of the offense with which they are dealing.

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